

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

In re:

M.G. & E.D., LLC, Bankruptcy Petition No.
C-03-20197
Debtor.

MARGARET FRATILA,

Appellant, Civil Action No. 06-173
vs. Civil Action No. 06-282
MICHAEL BOUDLOCHE, Civil Action No. 06-400
AS PLAN TRUSTEE,
Appellee.

ORDER CONSOLIDATING ACTIONS

On September 7, 2006, the Honorable Richard Schmidt of the United States Bankruptcy Court for the Southern District of Texas entered an "Order Regarding [Appellant] Fratila's Motion to Reconsider Order Closing Case (Docket # 390)" (Bankruptcy D.E. 406), and an "Order Denying Motion to Reconsider Order Denying Stay of Distribution (Docket # 398)" (Bankruptcy D.E. 407), in Bankruptcy Case No. 03-20197-C-7. Appellant Margaret Fratila appealed these two Orders in a single bankruptcy appeal before this Court, Fratila v. Boudloche, Case No. 06-400.

Previously, Appellant appealed three other Orders of the Bankruptcy Court in the same Bankruptcy Case (03-20197-C-7). This

resulted in two separate bankruptcy appeals before this Court: Fratila v. Boudloche, Case No. 06-173, and Fratila v. Boudloche, Case No. 06-282. On July 13, 2006, the Court consolidated these two bankruptcy appeals, with Case No. 06-173 as the lead case, and Case No. 06-282 as a member case. (Case No. 06-173, D.E. 6).

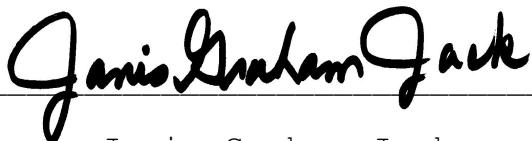
Because Appellant's most recent appeal of the Bankruptcy Court's Orders in Case No. 06-400 involves identical parties and common questions of law and fact as Appellant's earlier appeals in Case Nos. 06-173 and 06-282, consolidation of Case No. 06-400 into the consolidated Case No. 06-173 is proper pursuant to Federal Rule of Civil Procedure 42(a) ("when actions involving a common question of law or fact are pending before the court ... it may order all the actions consolidated"); see also Miller v. United States Postal Serv., 729 F.2d 1022, 1036 (5th Cir. 1984).¹ Additionally, consolidation of Case No. 06-400 into the Case No. 06-173 consolidated action will not deny any of the parties the right to litigate the merits of their claims. See Allison v. Citgo Petroleum Corp., 151 F.3d 402, 425 (5th Cir. 1998).

Therefore, pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, the Court hereby CONSOLIDATES Appellant Fratila's bankruptcy appeal in Case No. 06-400 with the consolidated bankruptcy appeals in Case No. 06-173. Case No. 06-173 remains the

¹"A motion to consolidate is not required, the court may invoke Rule 42(a) sua sponte." Miller, 729 F.2d at 1036.

lead case, and Case No. 06-400 joins Case No. 06-282 as a member case. All future pleadings shall be filed in Case No. 06-173. The caption of all the consolidated cases will be re-aligned to conform to the above-styled caption.

SIGNED and ENTERED this 25th day of October, 2006.



Janis Graham Jack
United States District Judge